IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. APP (SJ) No.901 of 2008
SATYA NARAIN MAHTO & ORS
Versus
STATE OF BIHAR
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02 16.09.2008 Heard.

All the appellants have been charged for the offences under Sections 307/34, 341 & 379 of the Indian Penal Code. The appellants were, however, convicted by the learned Additional Sessions Judge, Fast Track Court No. IV, Vaishali at Hajipur under Sections 341 and 323 of the Indian Penal Code and sentenced to undergo simple imprisonment for three months and pay a fine of Rs.500/-(five hundred) each and in default thereof, to undergo S.I. for 15 days and one month respectively.

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The informant Shiv Shankar Kumar (P.W.3) stated that he is in fact son of appellant no.1 and appellant nos. 2 & 3 are his brothers. It has been alleged that on 1.11.2004 at 1.30 P.M., while he was doing his business in his shop, the appellants came and began to abuse him. When informant protested, they took away cash amounting to Rs. 5,000/- and looted several articles kept in the shop. It is alleged that accused persons assaulted him by flat iron rod, as a result of which, he sustained severe bleeding injuries. The prosecution has examined altogether five witnesses, including I.O. who was examined as P.W.4 and the Doctor as P.W.5 respectively . The informant has also been examined as P.W.3.

The defence has also examined seven witnesses in their support. The Doctor has found simple injuries on the person of the

informant. It appears from perusal of the evidence of P.Ws that they have supported the prosecution case.

In this view of the matter, I do not find any ground for interfering with the aforesaid judgment of conviction passed by the learned trial court vide his impugned judgment dated 19.08.2008. So far as the quantum of sentence is concerned, it appears that the appellants and the informant are own father and brothers and they virtually live in the same house. It is submitted that this is their first offence. In this view of the matter, instead of sentencing the appellants to imprisonment, this court is of the view, that some fine will suffice for appropriate punishment.

In this view of the matter, the sentence of punishment is altered into a fine of Rupees 200/-(Two hundred) to be paid by each of the appellants to the informant apart from that they have already deposited.

With the aforesaid modification in the sentence, this appeal is dismissed.

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Sym **(S.P.Singh,J.)**